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June 6, 2025

Hon. Magistrate Judge Miroslav Lovric
U.S. District Court Northern District Of New York
15 Henry Street
Binghamton, NY 13901

RE: Happy Hour Drinks Company, Inc. v. Can Man, LLC et al.
Case No. 3:24-cv-00047-TJM-ML

Your Honor:

We represent the plaintiff Happy Hour Drinks Company, Inc., in the above action. This status report is submitted on behalf of the Plaintiff pursuant to the Court's direction. (ECF No. 79).

The Parties are making substantial progress in diligently completing discovery in this matter. To date, the following depositions have taken place: Matthew Novian of Happy Hour (12/11/24), Andrew Zimmerman formerly of Defendants (12/16/24, 2/4/25, 2/5/25), Anthony Ciocci formerly of Defendants (2/5/25), Matthew Morton of Happy Hour (2/12/25), Tyler Mondoc formerly of Defendants (3/26/25, 3/27/25).

Additionally, the Parties have noticed and met and conferred about the 30(b)(6) depositions for each of the two Defendants. The District Court has yet to rule on Defendants' appeal (ECF No. 67) and has stayed Defendant's compliance deadline until the motion is decided (ECF No. 75). Plaintiff's expert will require the financial documents at issue in that motion in order to complete the expert report. Assuming they are compelled to be produced, these financial documents will also be pertinent to several of the topics in the 30(b)(6) depositions of the two Defendants.

In parallel to the remaining discovery to be completed, the Parties and Cincinnati Insurance Company have agreed to participate in another session of mediation with Terrence O'Connor on August 13, 2025. This was the soonest available date with this mediator, who presided over the mediation in November and who the Parties and insurance company mutually agreed to preside over

another session of mediation due to his familiarity with this case.

In light of the fast-approaching deadlines in this matter, particularly the deadline for plaintiffs to make expert disclosures (6/13/25; see ECF No. 79), and the forthcoming mediation, Plaintiffs respectfully request an additional modification of the Court's schedule by 90 days for good cause. *Kassim v. City of Schenectady*, 221 F.R.D. 363, 366 (S.D.N.Y. 2003) (internal citation marks and citation omitted) ("Good cause may be established if the moving party can demonstrate that the deadlines cannot reasonably be met despite the diligence of the party needing the extension"). Despite Plaintiff's diligence in taking the above-referenced depositions and pursuing further written discovery from Defendants, including by way of motion to compel, Plaintiff cannot reasonably complete their initial expert disclosures by June 13, 2025. The outstanding 30(b)(6) depositions and compelled discovery is necessary for Plaintiff's expert evaluation of liability and damages. Defendants will suffer no prejudice with an extension. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.1992) ("Although the existence or degree of prejudice to the party opposing the modification might supply additional reasons to deny a motion, the focus of the inquiry is upon the moving party's reasons for seeking modification. If that party was not diligent, the inquiry should end.")

Additionally, Defendant's counsel has indicated that he will not oppose this request.

Accordingly, for good cause appearing, Plaintiff respectfully requests a modification to the Court's scheduling order (ECF No. 79) by an additional 90 days on all deadlines. This would change the deadlines to:

- Plaintiff Expert Disclosure Deadline is 9/12/2025
- Defendants Expert Disclosure Deadline is 10/15/2025
- Rebuttal Expert Disclosure Deadline is 10/29/2025
- All Discovery, including all depositions, shall be completed by 11/26/2025
- Dispositive motions shall be filed by 12/23/2025.

We thank the Court for its attention to this matter.



JOSEPH A. CHURGIN

JAC/mc

cc: Eric Kurtz, Esq.

Happy Hour Drinks Company, Inc.